CHALLENGES WITH EXPLORATION IN SOUTH AFRICA

2024

MINERALS COUNCIL
SOUTH AFRICA

INTRODUCTION

South Africa's share of global exploration has dropped consistently in the last 20 years, now attracting only about 0.9% of global exploration dollars, having reached 5% 20 years ago. In 2023, South Africa attracted $117.4m in exploration finance, compared with Canada, which attracted $2.44bn. Australia was close behind, attracting $2.2bn.

According to S&P Global, when compared with the rest of Africa, South Africa attracted 9% of exploration finance in Africa in 2023, down from 34% in 2004. This is partially explained by the increased exploration activity in the rest of Africa in recent years.

In addition, little greenfield exploration is currently occurring in South Africa. Most activity is brownfield exploration, either extending reserves for major companies or exploring previously mined deposits for junior companies in the sector.

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STAGES IN FINANCING AN EXPLORATION PROJECT

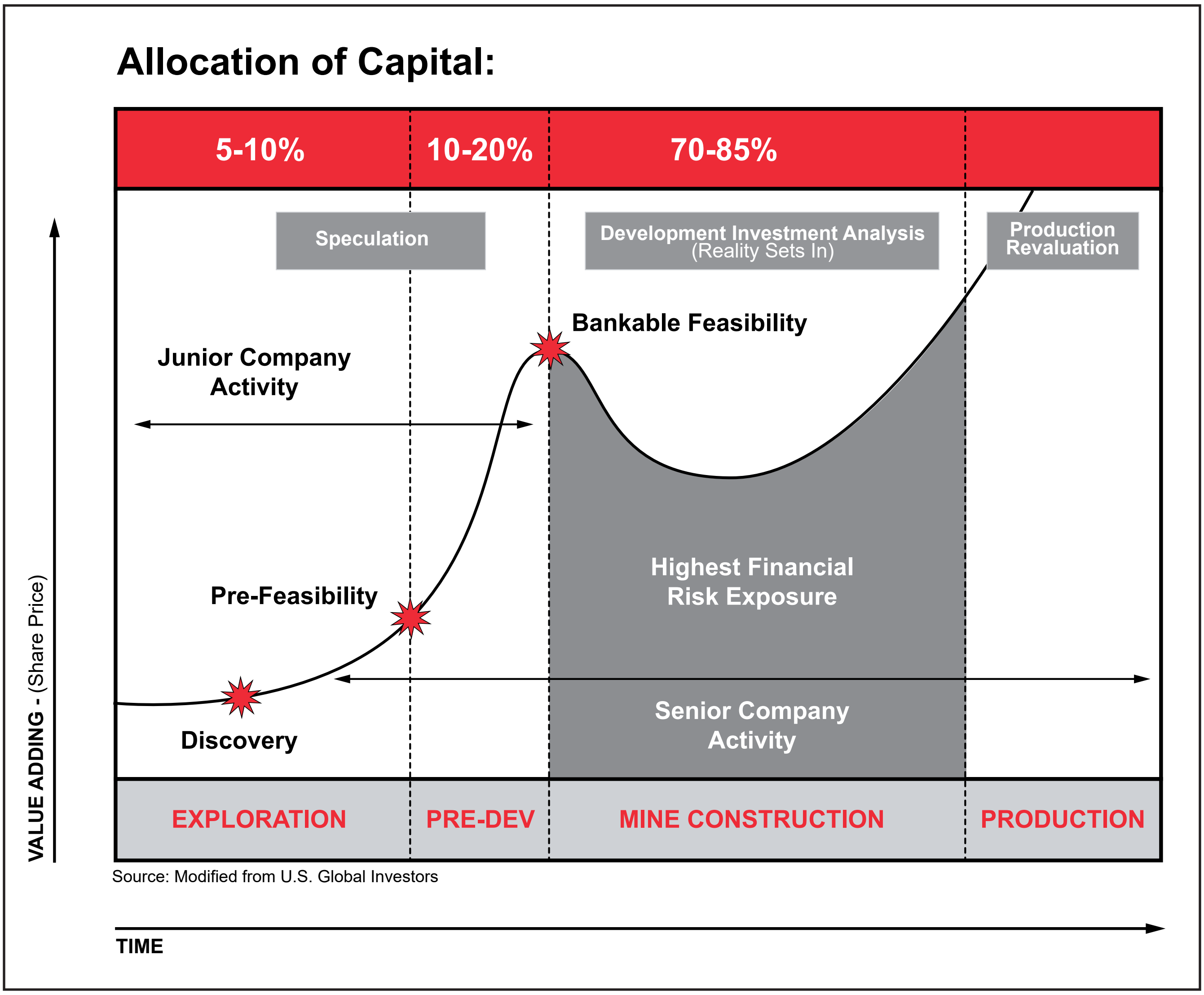

Figure 1. Stages in financing a mining project, from exploration to mine development[1]

Approximately 20% of total capital allocation is spent in the exploration and pre-development stages. Generally, once this stage is reached, the project is taken up by a major company for development into an operational mine. Research has indicated that approximately one in 100 prospecting rights proves to have sufficient value to warrant a mining right. The figure for South Africa may be slightly higher, as most prospectors are working on known deposits that have been worked on in the past.

1. **Figure 1 sets out the stages in financing an exploration project. Adapted from Kriel, R., 2019. The Extent, Nature and Economic Impact of the Junior and Emerging Mining Sector in South Africa. Chamber of Mines research report.**

SURVEY AND METHODOLOGY

This report examines the challenges encountered during the early stages of mineral prospecting. A high-level survey was conducted among a sample of Minerals Council members, including both junior and major companies, to identify the most significant factors affecting capital attraction for exploration projects. In particular, the study delves into the "pressure points" of the application process and explores potential solutions to reduce these bottlenecks, aiming to ensure a more efficient and expeditious application process.

The survey targeted 18 Minerals Council member companies involved in exploration, comprising both major companies and juniors. Eight responses were received, representing a 45% response rate. Additionally, two specialists in the application process were consulted, and follow-up calls were made to selected CEOs. The following material items were investigated:

1. The mineral deposit (including demand for the minerals)
2. The regulatory environment (including the process of obtaining a prospecting right)
3. Infrastructure (including existing mine facilities, roads, energy supply, etc.)
4. Access to finance (both local and international)
5. Political and social stability
6. Access to technical skills
7. Recommendations for enablers to attract investment in exploration in South Africa
8. Support received

FINDINGS

1. The Mineral Deposit (including the demand for the mineral)

The mineral deposit emerged as a crucial factor for exploration investment in South Africa, cited by nearly all respondents.

Illustrative examples include:

"South Africa is richly endowed with minerals, particularly platinum group metals (PGMs), making it the preferred country for investment in these resources. PGMs have unique characteristics that enable them to act as catalysts in various applications. They are regarded as strategic metals by most countries and will continue to play a vital role in the green economy."

"South Africa has some of the best mineral deposits in the world, and is relatively under-explored in recent times."

"...manganese mineral potential in Mpumalanga has encouraged an investment case."

"...this is critical: minerals/deposits drive exploration potential."

2. Regulatory Environment

The regulatory environment, including legislation and its administration, was cited as "highly significant" and a major deterrent to investment in exploration. While respondents acknowledged that the mining industry is governed by a robust framework, ongoing changes are seen as discouraging to investors.

One respondent noted:

> *"While the regulatory environment aims to balance economic growth, transformation, and environmental sustainability, it remains complex for most investors to understand. Legislation is subject to ongoing changes and legal interpretations, often resulting in court cases that incur significant costs and time delays for companies."*

Another respondent was more emphatic:

> *"The regulatory environment is a showstopper – slow and opaque systems will be a reason to invest in other jurisdictions."*

2.1 Regulatory Process Issues

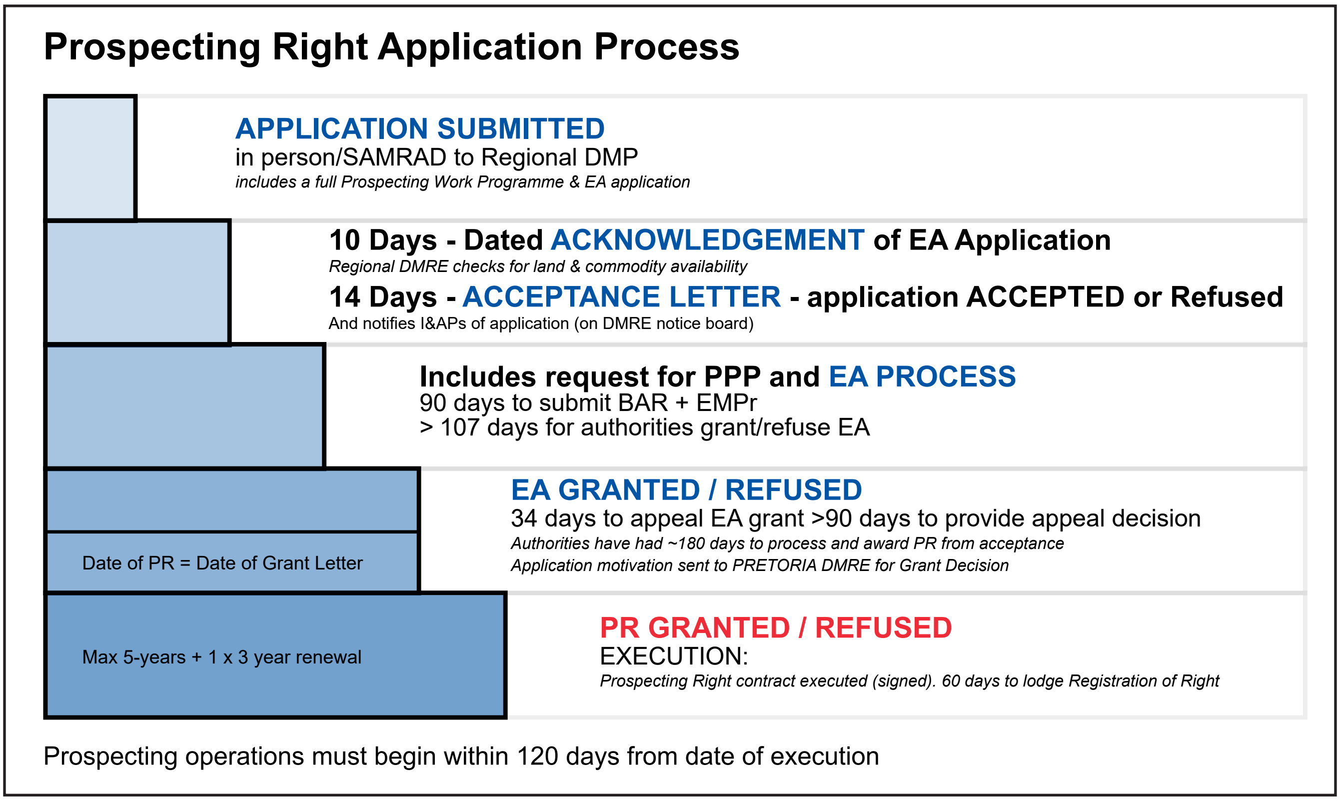

Figure 2: Prospecting Right Application Process

Figure 2 illustrates the prospecting right application process. The following sections detail the regulatory process challenges and friction points identified by respondents that collectively pose significant barriers to exploration investment in South Africa.

a. Pre-Application Stage

Access to Information

Prospective applicants face high risk due to the inability to verify whether an area is available for application.

Environmental Assessment Requirements

Simultaneously with submitting a prospecting right application, applicants must:

1. Appoint an Environmental Assessment Practitioner
2. Determine necessary environmental impact assessment studies
3. Prepare and submit specialist reports
4. Calculate financial provisioning

These tasks must be completed within stringent prescribed time periods, without any indication of the application's likelihood of success.

Financial Barriers

The process requires significant upfront capital to fund environmental studies and other expenditures, without assurance of application approval. This creates a substantial barrier to entry, particularly for:

- Smaller entrants
- Companies unable to secure necessary funding investment.

b. Application Process

SAMRAD Portal Issues

Despite improvements over the years, the South African Mineral Resources Administration System (SAMRAD) application portal is often non-functional or non-operational. This results in dual submission processes:

1. Electronically on the SAMRAD system
2. In-person at the Department of Mineral Resources and Energy (DMRE) offices, where documents are uploaded to SAMRAD
3. A combination of both methods

The system's inability to accommodate the volume of required documents necessitates these alternative approaches.

Application Tracking Challenges

Submitted applications are not always visible on the DMRE portal, necessitating:

- Extensive follow-ups by applicants
- Re-submissions, which may result in loss of first application rights

Transparency and Competing Applications

The lack of a transparent and functional system contributes to:

- Acceptance of competing applications for the same mineral in the same area
- Acceptance of applications for different minerals in the same area

These issues lead to legal challenges by existing right holders to protect their security of tenure, creating uncertainties and delays for both existing holders and applicants.

Errors in Acceptance Letters

Acceptance letters often contain errors or mistakes, resulting in:

- Further delays
- Legal challenges (objections/appeals) to amend or rectify the errors

Corruption Concerns

- Non-transparent processes invite corruption
- Officials are reluctant to correct mistakes, even when proven, due to fears of being accused of corruption

c. Compliance with Timelines

In terms of the Mineral and Petroleum Resources Development Act 28 of 2002 (MPRDA), the regional manager must give notice in writing of the acceptance of an application for a prospecting right within 14 days of the date of acceptance of the application, under the following conditions:

- The requirements for a prospecting right are met
- No other persons hold a prospecting right for the same mineral and land
- No prior application for a prospecting right, mining right, mining permit or retention permit has been accepted for the same mineral and land which is yet to be granted or refused.

Practical Realities

Acceptance letters are often processed 4-6 months after submission. This non-adherence to expressed periods adds significant uncertainty and unpredictability to the administration of rights under the MPRDA.

Additional Delays

Where no specific timelines are prescribed, the DMRE often takes prolonged periods to conduct administrative processes and make decisions. Applicants are then forced to resort to costly legal challenges against the DMRE's failure to take decisions within a reasonable time.

d. Integration of Environmental Requirements

Environmental considerations permeate the application process for prospecting rights and no prospecting activities may commence without the required environmental authorisation. However, there is misalignment between the time periods stipulated in the Mineral and Petroleum Resources Development Act (MPRDA) and those provided for in the National Environmental Management Act (NEMA).

Statutory Timelines

MPRDA Requirements

The MPRDA requires that the regional manager must, within 14 days of acceptance of a prospecting right application, notify the applicant to submit environmental reports within 60 days of such notice. The applicant must consult in the prescribed manner with the landowner, lawful occupier and any interested and affected party, and include the consultation results in such reports.

EIA Regulations

The Environmental Impact Assessment (EIA) Regulations, in turn (in respect of a basic assessment report), provide that the applicant must within 90 days submit, inter alia, a basic assessment report with supporting documents (all of which have been subjected to a public participation process of at least 30 days) to the competent authority.

Challenges in Implementation

The conflict of periods creates uncertainty regarding the applicable periods and processes, some of which run parallel to one another, and which in turn increases the risk of non-compliance with such requirements. This misalignment among timelines further contributes to confusion and delays.

Legislative Inconsistencies

Legislation also does not distinguish between mining and prospecting, often stipulating similar environmental requirements for both activities. One stakeholder commented that

> *"the first few years are often non-invasive prospecting, and a 'Prospecting Permit' [Reconnaissance Permission] should be used, which should not require environmental assessments, just the consultation with the surface owner. This is not currently used because no exclusivity exists (a third party can apply for a prospecting right if you find something)".*

Disproportionate Requirements

In addition, other environmental authorisations that involve expensive specialist studies (e.g. Water Use Licence), are often required for prospecting, which is not in keeping with the low impact of prospecting methods, i.e. prospecting without bulk sampling.

e. Consultation with Interested and Affected Parties

Applicants must consult with interested and affected parties depending on the activity. Interested and affected parties often ignore the public participation processes to force access agreements and receive payment rather than the compensation required by law. This results in the lodging of spurious objections and/or appeals, delaying the granting of prospecting rights and effectively holding the applicant to ransom.

f. Execution and Registration Delays

Respondents reported numerous instances where documents were returned due to inaccuracies, necessitating the recirculation of amendments. Even simple errors can take months to rectify. In certain regions, the execution of prospecting rights typically spans six months to two years, primarily due to backlogs and the time required for the DMRE to internally resolve errors.

Errors in acceptance or granting of rights cause significant delays, as these must be corrected before the rights can be registered.

g. Section 96 Appeal Processes

The MPRDA's Section 96 establishes a two-tier appeal process for administrative decisions:

1. Appeals to the Director-General if the decision was made by the Regional Manager
2. Appeals to the Minister if the decision was made by the Director-General

This process must be exhausted before an aggrieved party can seek relief from the courts.

However, this system is often misused, particularly by landowners, who lodge spurious appeals to force access agreements and secure payments. This abuse leads to significant issues:

1. Lengthy delays in finalising internal appeals, exacerbated by the DMRE's failure to adhere to prescribed timelines.
2. Substantial legal costs for applicants in preparing appeals and potential court proceedings.

h. SAMRAD System

The SAMRAD system faces significant challenges in its role as a mineral rights administration platform. Survey respondents highlighted several key issues:

Lack of Transparency and Functionality
The system does not provide the necessary transparency or functionality for efficient mineral rights administration.

Outdated Property Referencing
The DMRE uses farm portions instead of coordinates when processing rights applications. This approach causes problems, especially when farm properties are subdivided or consolidated.
Section 102 amendments are not incorporated into spatial checks.

Overlapping Acceptances
The issues with property referencing contribute to an increase in overlapping acceptances of rights.

Outdated Information
Some respondents reported that the system contains “ghosts” of expired rights, suggesting that outdated information is not properly removed or updated.

System Downtime
The SAMRAD system is frequently unavailable, making the application process unnecessarily complicated and time-consuming.

Need for Replacement
Respondents strongly emphasised the necessity for a transparent, efficient and effective cadastre system.

2.2 Administrative Implementation Issues

In addition to the regulatory process issues, the following administrative implementation issues were identified.

a. Resource Capacity Constraints and Skills Shortages

Resource capacity constraints and skills shortages within the DMRE were identified as key challenges. Key comments from respondents include the following:

> *“Each official appears to be working on upwards of 30-50 files at a time. Applications are not completed. Directives (requests for additional information) are commonly not received by applicant as the DMRE uses outdated or incorrect information for correspondence.”*

Internally, DMRE officials manually transfer documents between departments to address queries, leading to delays of up to a year, especially for complex applications. This makes it difficult for officials to adhere to legislated time frames. While prospecting right grants should ideally take about two months after the Environmental Authorisation grant, they typically add six months to two years to the application processing period.

Respondents highlighted several administrative breakdowns:

- At one office, non-functional printers compelled an applicant to print and physically deliver their own application.

- Junior staff, though willing to assist, often lack the necessary skills to process applications effectively.
- Managerial staff and senior personnel are frequently unavailable to discuss or answer questions.
- Documents regularly go missing, causing further delays.

These issues collectively result in long and unnecessary delays. As one respondent noted:

"Our interactions with the DMRE regional office and its personnel were generally positive. Whenever we contacted the office, the regional personnel offered assistance. However, we remain concerned about potential issues such as lack of clarity or oversight. Various government officials handling complex documents, including agreements and legal paperwork, are often young and inexperienced (probably because of high staff turnover), lacking the necessary skills to accurately assess these documents. Where young graduates do master the skills, it is noted that they unfortunately then move on to the private sector after a few years. This situation unfortunately leads to delays in the application process and sometimes results in misinterpretations."

b. Slow Response Times and Failure to Follow Timelines

All respondents rated this issue as "very significant". Key points include:

- Poor internal routing of applications
- Staff often unable to locate documents within departments/branches
- Significant delays in processing, with applications taking years instead of months
- Prospecting activities prohibited until the right is executed

These issues severely impact the application process, causing extensive delays and uncertainty for applicants.

c. Substantial Number of Inaccuracies in Formal Documents

Respondents reported numerous instances of document inaccuracies, leading to significant process delays:

- Documents frequently returned due to errors, necessitating recirculation of amendments
- Documents going missing, causing additional delays
- Simple errors often taking months to correct

In some regions, these issues contribute to the execution of prospecting rights typically taking six months to two years, primarily due to backlogs and the time required for the DMRE to internally resolve errors. Errors in the acceptance or granting of rights cause significant delays, as these must be corrected before the rights can be registered.

3. Infrastructure

Infrastructure was not viewed as a major deterrent to exploration activity. Respondents noted that South Africa has a very well-developed infrastructure compared to many other mining jurisdictions, including most of Africa, South America, Europe, and the Indian sub-continent.

One respondent highlighted that South Africa's mining infrastructure is both advanced and extensive, reflecting the country's long history in the mining sector when compared to other major exploration destinations. However, participants also emphasised that this infrastructure is deteriorating and requires attention. Typical responses included:

“generally good infrastructure but deteriorating”

“Although South Africa’s mining and logistics infrastructure are among the most developed in the world, it faces increasing challenges that need addressing to maintain competitiveness”

4. Access to finance (both local and international)

Access to finance is viewed as “highly significant”, and the general perception is that finance for exploration projects in South Africa is extremely difficult to obtain. Some illustrative examples:

“One of the biggest challenges for an exploration company is to overcome the hurdle to get to Pre-Feasibility Study level. Companies who require pre-feasibility (exploration) financing have very limited options in South Africa and often need to seek financing internationally.”

“Without finance, [there can be no investment in exploration] This is not well understood in South Africa (where very few new projects have seen the light during the last 20 years). Finance depends on a consistent and balanced regulatory environment, a stable socio-political environment exemplified by a respect for the rule of law and a sound economic environment where everyone is treated equally (i.e. it’s a fact that the investing world fails to understand BEE because there is no clear policy and certainty – we live in a country where the goalposts constantly change direction).

“Also, public finance corporations show a lot of interest in projects, but when it comes to putting their money where their mouths are, nothing happens (even to the point of default). This causes massive credibility issues with other co-financiers and has scupper[ed] a few financings. The international financing opportunities for South Africa is very limited and, therefore, the financeability of a project in South Africa will be critical.”

5. Political/social stability

Political stability was viewed by respondents as “highly significant” and a key factor in investability.

Among the responses captured are:

“South Africa has a well-established democratic system with regular elections, a robust constitution, and independent judiciary and, the country has seen peaceful transitions of power.”

“While South Africa has strong democratic institutions and an active civil society, challenges such as corruption, factionalism, inequality, and high crime rates impact its political and social stability. These factors create a mixed environment for investors, and often raise several questions during discussions.”

6. Access to technical skills

Among respondents there is a perception that South Africa has an abundance of technical skills.
Here is an illustrative example from the responses:

"South Africa has a robust foundation of mining technical skills supported by strong educational institutions and professional bodies. However, addressing skills shortages in specialised areas, ensuring the transfer of knowledge from an aging workforce, and retaining top talent within the country are critical to maintaining and enhancing the availability of mining technical skills. The country has seen a significant brain-drain of skilled young graduates in recent years."

7. Recommended Enablers to Attract Exploration Investment in South Africa

Respondents suggested several key enablers to attract investment in exploration:

1. **Geoscientific Data:** Make data freely available or purchasable at minimal cost. As one respondent noted, "We do not mind paying for data, but being told that we need to have a prospecting permit before data is made available is an opportunity killer. Not conducive to new companies entering a country."
2. **Cadastre System:** Implement a transparent and up-to-date cadastre, ensuring timely processing of rights and applications.
3. **Licensing and Data Access:** Improve transparency in licensing processes and provide better access to historical and geological data. Reduce financial burdens at the exploration stage.
4. **Policy Clarity:** Ensure clear and consistent policies related to mining rights, environmental regulations, and taxation. Respondents emphasized that policy uncertainty deters long-term investments.
5. **Streamlined Processes:** Simplify and streamline permitting and licensing processes for exploration activities, including efficient approval timelines and transparent procedures.
6. **Financial Incentives:** Offer incentives such as tax breaks, exploration grants, or subsidies to mitigate financial risks for exploration companies, especially in early-stage exploration.
7. **Political Stability:** Ensure political stability and effective governance to provide a predictable and secure operating environment for investors.

These recommendations highlight the need for a comprehensive approach to improving South Africa's attractiveness for exploration investment, addressing both regulatory and financial aspects of the industry.

8. Support Received (both governmental and non-governmental)

The general response was that the state provides no support for exploration activities (despite the launch of the Junior Mining and Exploration fund).

However, it was noted that, in some instances, companies had a good relationship with the DMRE, despite the lack of managerial oversight in these departments. Relationships with the Council for Geoscience had improved, particularly in accessing geological data.

9. Other Comments from Respondents

- The perception of South Africa is much worse than the reality. South Africa has all the key requirements to be a great exploration nation. But policy and red tape prevent small players from entering the market. Small juniors drive exploration success in other markets.
- The South African government and mineral industry need a Prospecting Right campaign to address their international perception as a poor investment destination.
- South Africa's regulation meets all the United Nations Stability Goals (sic). South Africa should promote itself as an ESG investment destination.

10. Key Takeouts and Opportunities for Further Consideration

South Africa's mineral sector presents significant opportunities and challenges:

Exploration Potential: The country's mineral deposits, particularly those that are under-explored, offer substantial opportunities to drive exploration.

Regulatory Environment: Both the process and administration of regulations are plagued by delays, resulting in:

- High degree of uncertainty and unpredictability
- Significant cost exposures
- Elevated risk to investment potential

SAMRAD System: The current system is not functional. There is a critical need for a transparent, efficient, and effective cadastre system.

Access to Finance: Securing both local and international funding is crucial for exploration development.

Political Stability: A stable political environment is a key driver for attracting exploration investment.

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